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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,615	06/27/2003	Robert D. Vanderminden SR.		8437

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EXAMINER	
CRANMER, LAURIE K	
ART UNIT	**PAPER NUMBER**
3636	

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/608,615	VANDERMINDEN, ROBERT D.	
	Examiner	Art Unit	
	Laurie K. Cranmer	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 July 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Halpin.

Jones teaches a lounge chair including a pair of leg assemblies 16, 18 disposed in parallel relation to each other, each leg assembly including an elongated bar 64 (and col. 3, lines 27, 28), each leg being secured at an intermediate point thereof to the elongated bar at a respective end thereof, a pair of stretcher bars (42 & 44, 42 & 44) disposed in parallel relation to each other, and transverse of the leg assemblies, each stretcher bar having one of the legs of each of the leg assemblies pivotally mounted thereon for movement between an extended position and a retracted position with the leg assemblies disposed in folded over relation to each other (Fig. 4), a fabric panel (70) secured to and between the stretcher bars in parallel relation to the leg assemblies and

wherein each leg is of a length less than the distance between the predetermined points of pivotal attachment to the stretcher bar substantially as claimed except for the leg assemblies disposed longitudinally of the lounge and the stretcher bars disposed transversely of the lounge.

The patent to Halpin teaches a lounge wherein the leg assemblies (8, 4, 8) extend longitudinally of the lounge and the stretcher bar 6 extends transverse to the lounge to be old and well known in the art. It would have been obvious to one of ordinary skill in the art to modify the Jones device such that the orientation of the leg assemblies and the stretcher bars were such that the leg assemblies extended longitudinally of the lounge and the stretcher bars extended transverse of the lounge as taught to be old by Halpin thereby providing a conventional alternative orientation of folding legs.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Halpin as applied to claim 1 above, and further in view of Gaylord.

Gaylord teaches a lounge including wherein the stretcher bars 20, 22 each has a longitudinally disposed slot slidably receiving a respective loop of the fabric panel to be old and well known in the art. It would have been obvious to one of ordinary skill in the art to further modify the Jones device such that the stretcher bars each had a slot as taught to be old by Gaylord thereby providing the obvious advantage of greater security of the fabric panel.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Halpin as applied to claim 1 above, and further in view of Brown.

Brown teaches a plurality of struts 31, 56, 53, 46 pivotally secured at one end to a respective one of the legs and one of the stretcher bars and being removably connected to the other of the one of the legs and one of the stretcher bars, each strut being disposed to maintain the leg assemblies in the extended positions to be old and well known in the art. It would have been obvious to one of ordinary skill in the art to further modify the Jones device such that it had struts as taught to be old by Brown thereby providing the obvious advantage of greater lounge stability.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Jones. The elongated bar on the rear leg assembly comprises items 62 and 64, the elongated bar on the front leg assembly is described in col. 3, lines 27-28.

Response to Arguments

Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laurie K. Cranmer whose telephone number is 703-308-2115. The examiner can normally be reached on T-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Cuomo can be reached on 703-308-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Laurie K. Cranmer
Primary Examiner
Art Unit 3636

LKC
10/12/04